

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

## ITEM # 3      Adult Day Programs

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held August 17, 2005, as follows:

August 17, 2005  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on August 17, 2005.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT: Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814

TELEPHONE: (916) 657-2586      FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

CHAPTERS

California Code of Regulations (CCR), Division 6, Chapter 3 (Adult Day Care Facilities), Article 1, (General Requirements), Sections 82000 (General), 82001 (Definitions), and 82003 (Definitions – Forms); Article 2 (Licensing), Sections 82005 (License Required), 82006 (Operation Without a License), 82007 (Exemption From Licensure), 82009 (Posting of License), 82010 (Limitations on Capacity), and 82012 (False Claims); Article 3 (Application Procedures), Sections 82017 (Nondiscrimination of Applicants), 82018 (Application for License), 82019 (Criminal Record Clearance), 82019.1 (Criminal Record Exemption), 82020 (Fire Clearance), 82021 (Water Supply), 82022 (Plan of Operation), 82023 (Disaster and Mass Casualty Plan), 82024 (Waivers and Exceptions), 82027 (Initial Application Review), 82028 (Capacity Determination), 82029 (Withdrawal of Application), 82030 (Provisional License), 82031 (Issuance of License), 82034 (Submission of a New Application), 82035 (Conditions for Forfeiture of a License), and 82036 (Licensing Fees); Article 4 (Administrative Actions), Sections 82040 (Denial of License), 82042 (Revocation or Suspension of License), 82044 (Inspection Authority of the Licensing Agency), and 82046 (Exclusions); Article 5 (Enforcement Provisions), Sections 82051 (Serious Deficiencies), 82052 (Deficiencies in Compliance), 82053 (Follow-up Visits to Determine Compliance), 82054 (Penalties), 82055 (Administrative Review), 82055.1 (Responsibility for Civil Penalties), 82056 (Exemption from Civil Penalties), 82058 (Unlicensed Adult Day Program Penalties), and 82059 (Unlicensed Day Program Administrative Appeal); Article 6 (Continuing Requirements), Sections 82061 (Reporting Requirements), 82062 (Finances), 82063 (Accountability), 82064 (Administrator – Qualifications and Duties), 82065 (Personnel Requirements), 82065.1 (Personnel Qualifications and Duties), 82065.5 (Staff-Client Ratios), 82066 (Personnel Records), 82068 (Admission Agreements), 82068.2 (Needs and Services Plan), 82068.3 (Modifications to Needs and Services Plan), 82068.5 (Procedures for Discharge), 82069 (Client Medical Assessments), 82070 (Client Records), 82071 (Register of Clients), 82072 (Personal Rights), 82073 (Telephones), 82074 (Transportation), 82075 (Health-Related Services), 82075.1 (Daily Inspection for Illness), 82075.2 (Automated External Defibrillators AEDS)), 82076 (Food Service), 82077 (Personal Services), 82077.2 (Care for Clients Who Rely Upon Others to Perform All Activities of Daily Living), 82077.4 (Care for Clients with Incontinence), 82077.5 (Care for Clients with Contractures), 82078 (Responsibility for Providing Care and Supervision), and 82079 (Planned Activities); Article 7 (Physical Environment), Sections 82086 (Alterations to Existing Buildings or New Facilities), 82087 (Buildings and Grounds), 82087.2 (Outdoor Activity Space), 82087.3 (Indoor Activity Space), 82087.4 (Storage Space), 82088 (Fixtures, Furniture, Equipment, and Supplies), and 82088.2 (Drinking Water); Article 8 (Incidental Medical Services), Sections 82091 (Prohibited Health Conditions), 82092 (Restricted Health Conditions), 82092.1 (General Requirements for Restricted Health Conditions), 82092.2 (Restricted Health Condition Care Plan), 82092.3 (Inhalation-Assistive Devices), 82092.4 (Colostomy/Ileostomy), 82092.5 (Fecal Impaction Removal, Enemas, or Suppositories), 82092.6 (Indwelling Urinary Catheter/Catheter Procedure), 82092.7 (Staph or Other Serious, Communicable Infections), 82092.8 (Diabetes), 82092.9 (Wounds), 82092.10 (Gastrostomy Feeding, Hydration, and Care), 82092.11 (Tracheostomies), 82093 (Department Review of Health-Related Conditions); Chapter 3.5 (Adult Day Support Center), Article 1 (General Requirements), Sections 82500 (General) and 82501 (Definitions); Article 2 (Licensing); Article 3 (Application Procedures); Article 4 (Administrative Actions); Article 5 (Civil Penalties); Article 6 (Continuing Requirements, Sections 82564 (Administrator - Qualifications and Duties), 82565 (Personnel Requirements), 82565.1 (Personnel Qualifications and Duties), 82565.5 (Staff Participant Ratio), 82568.2 (Needs and Services Plan), 82568.3 (Modifications to the Needs and Services Plan), 82575 (Health-Related Services), 82575.1 (Daily Inspections for Illness), 82576 (Food Services), and 82579 (Activities); Article 7 (Physical Environment), Sections 82587 (Buildings and Grounds), 82587.2 (Outdoor Activity Space), 82587.3 (Indoor Activity Space), 82587.4 (Storage Space),

82588 (Fixtures, Furniture, Equipment, and Supplies), and 82588.2 (Drinking Water); Chapter 1 (General Licensing Requirements), Sections 80000 (General), 80001 (Definitions), 80011 (Advertisements and License Number), 80019 (Criminal Record Clearance), 80036 (Application/Annual Processing Fees), 80068.5 (Eviction Procedures), 80075 (Health-Related Services), 80077.2 (Care for Clients Who Rely Upon Others to Perform all Activities of Daily Living), 80087 (Buildings and Grounds), 80092.2 (Restricted Health Condition Care Plan), 80092.8 (Insulin-Dependent Diabetes), and 80092.9 (Wounds).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, community care facilities (with some exceptions) must meet General Licensing Requirements which are contained in Title 22, Division 6, Chapter 1, Sections 80000 through 80094.5. These general requirements include those regulatory areas which are common to most licensing categories. The regulatory areas, though common to most licensing categories, do contain some requirements applicable only to a specific licensing category. Licensees must also comply with regulations specific to the type of license for which they are applying.

These proposed regulations are the result of Senate Bill (SB) 1982, (Chapter 773, Statutes of 2002). The act added Section 1530.1, amended Section 1502, and repealed Section 1502.2 of the Health and Safety Code. The statute consolidated the Adult Day Care Facilities and Adult Day Support Centers into one program to be known as the Adult Day Programs. Merging of the two programs proposes to improve consumer access to community care licensed programs and minimize complexity and confusion for consumers, providers, and regulators.

The act also revised the definition of adult day program to any community-based facility of program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

To implement the provisions of SB 1982, the Community Care Licensing Division, in conjunction with a workgroup of stakeholders, developed and consolidated the existing adult day care, adult day support center and applicable general licensing regulations into one stand-alone chapter that will govern only adult day programs as allowed in SB 1982, Section 1(b). The workgroup convened in 2003 and included representatives from the California Association for Adult Day Services (CAADS), Lodi Memorial Hospital – Acute Day Care, California Rehabilitation Association, Community Options, Southside Art Center, Advocacy Resources and Choices, California Department of Aging, Developmental Services, and the Department's Legal Division.

Adult day programs provide services to persons with developmental disabilities, elders with functional or cognitive impairments, and other adults needing daytime assistance outside of the home. Adult day programs provide a wide variety of services ranging from respite for caregivers to independent living skill training for persons with developmental disabilities. There is a need to modernize the rules governing the licensure of adult day programs in keeping with the state's policy to offer consumers choices and to provide services in the least restrictive setting.

This regulations package does not contain any substantive changes to the regulations. There are no new regulations introduced in this regulation package. The purpose of this regulation package is to consolidate what previously were three separate and distinct regulation chapters into a single, stand-alone regulation chapter.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.
4. Federal Funding to State Agencies: No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state mandated costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations make only technical, nonsubstantive or clarifying changes to current law and regulation.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Sections 1502, 1503.1, 1522, 1530, 1530.1, 1547, and 1548, Health and Safety Code; and Section 10554, Welfare and Institutions Code. Subject regulations implement and make specific Sections 1500, 1501, 1502, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1513, 1520, 1520.3, 1520.11, 1522, 1522.1, 1523.1, 1524, 1525, 1525.5, 1526, 1526.5, 1530, 1530.5, 1531, 1533, 1534, 1536.1, 1537, 1538, 1538.5, 1540, 1540.1, 1541, 1547, 1548, 1549, 1550, 1550.5, 1551, 1553, 1556, 1557.5, 1558, 1558.1, 1560, 1561, 1562, 1564, 1569.47, 1797.196, and 13131, Health and Safety Code; Sections 362, 727, 4512, 4803, 5000 et seq., 5350, and 16100, Welfare and Institutions Code; Section 51, Civil Code; Sections 15376 and 15378, Government Code; Section 1800, Probate Code; Section 42001, Vehicle Code; Section 2881, Public Utilities Code; 20 CFR 416.601, and 29 CFR 1910.1030.

## CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person:	Everardo Vaca	(916) 657-2586
Backup:	Alison Garcia	(916) 657-2586